

201 KAR 30:070. Grievances.

RELATES TO: KRS 324A.020, 324A.050, 324A.052

STATUTORY AUTHORITY: KRS 324A.020, 324A.035, 324A.052

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.020 authorizes the board to investigate allegations of wrongdoing. KRS 324A.050 authorizes the board to take disciplinary action against the certificate or license of an appraiser for violations of KRS Chapter 324A. This administrative regulation establishes the procedures for filing grievances with the board.

Section 1. Definitions. (1) "Formal complaint" means a formal administrative pleading authorized by the board that states a charge against a credential holder or applicant and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B.

(2) "Grievance" means information that a person has allegedly violated the requirements of KRS Chapter 324A or 201 KAR Chapter 30.

Section 2. Grievance and Answers. (1)(a) The board shall process any grievance submitted against a licensee or certificant.

(b) A grievance against a licensee or a certificant shall be submitted in writing.

(c) The person or organization who submits a grievance shall be identified within the document, unless the grievance is being submitted anonymously.

(d) A grievance shall contain a concise statement of the facts, transaction, or occurrence upon which it is based.

(e) Exhibits or other documents, if applicable, shall be attached to the grievance.

(f) A copy of the grievance and attachments shall be served on the licensee or certificant by the board:

1. At the last known address of the licensee or certificant; and
2. By certified mail, return receipt requested.

(2)(a) If the board receives an anonymous grievance, an initial investigation shall be conducted to determine if a formal investigation is warranted.

(b) If the board receives an anonymous grievance, the board shall not be required to conduct a formal investigation.

(3)(a) The licensee or certificant shall file with the board an answer to the grievance.

(b) The answer shall be filed with the board within twenty (20) days after service of the grievance.

(c) A copy of the answer shall be served on the grievant, unless the grievant is anonymous, by the licensee or certificant, by certified mail, return receipt requested, to the address shown on the grievance.

Section 3. Formal Investigations. (1) The board shall conduct an investigation of the facts alleged in a grievance:

(a) Upon receipt of a grievance and answer; or

(b) If an answer is not filed with the board, upon expiration of the period established in Section 2(3)(b) of this administrative regulation.

(2) A party shall be granted access to information resulting from an investigation that:

- (a) Was conducted by the board or board personnel;
- (b) Was authorized by the board or board personnel; and
- (c) Is related to the subject matter of the grievance.

(3) A party may rebut or comment upon the information or investigation established in subsection (1) of this section.

(4) An investigation, or information resulting from an investigation, shall be disclosed to a party if it:

- (a) Was the basis for action appealed by an applicant or appraiser; or
- (b) Relates to the subject matter of a complaint.

(5) The requirements of the Uniform Standards of Professional Appraisal Practice (USPAP), incorporated by reference in 201 KAR 30:040, shall not apply to the board, its agents, and employees with regard to preparing an investigation for enforcement and disciplinary cases pursuant to this administrative regulation.

Section 4. Dismissal of Grievance. The board shall dismiss a grievance if the facts stated in the grievance, or facts known to the board upon investigation, fail to establish a violation of KRS 324A.050. The board shall notify the grievant and the licensee or certificant in writing if it dismisses the grievance.

Section 5. Formal Complaints. (1) If the facts alleged constitute a prima facie violation of KRS Chapter 324A, 201 KAR Chapter 30, or the USPAP, the board shall issue a formal complaint, in accordance with KRS Chapter 13B, against the credential holder or applicant and proceed pursuant to KRS 324A.052.

(2) The board may enter into informal settlement with the credential holder.

(a) A settlement conference shall be convened upon agreement of the parties.

(b) A person with a relationship to the proceedings who is permitted to attend the settlement conference may include the board's investigator, executive director, board representative, licensee or certificate holder, and an attorney or attorneys, as applicable.

(c) If the parties to a settlement conference agree on a stipulation, proposed term, or condition for an agreed order to resolve the complaint, the agreed order shall be forwarded to the board for consideration.

(d) If the proposed agreed order is approved by the board, the complaint shall be considered resolved, and a hearing shall not be held. (19 Ky.R. 2170; Am. 2463; eff. 7-9-1993; 23 Ky.R. 3609; 4111; eff. 6-13-1997; 28 Ky.R. 1490; 1824; eff. 2-11-2002; 29 Ky.R. 2516; 2867; eff. 6-16-2003; 36 Ky.R. 154; 571; eff. 10-2-2009, TAm 12-28-2009; 37 Ky.R. 1332; 1972; eff. 5-6-2011; 39 Ky.R. 1490; 1876; eff. 4-5-2013; 42 Ky.R. 95; 668; eff. 10-2-2015.)